

NO. 27066

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

REALTY FINANCE, INC., Plaintiff-Appellant/Cross-Appellee

vs.

THOMAS FRANK SCHMIDT and LORINNA JHINCIL SCHMIDT,
Defendants-Appellees/Cross-Appellants

and

KALOKO TWO PARTNERSHIP, a Hawai'i Limited Partnership; AMERASIAN
LAND CO., a Nevada Corporation; ASSOCIATION OF APARTMENT OWNERS
OF THE MARCO POLO APARTMENTS, an Unincorporated Condominium
Association; LAWHN & KEEVER, a Law Corporation; JOHN RAPP,
DOUGLAS J. IGE; INVESTORS FINANCE, INC., a Hawai'i Corporation;
STATE OF HAWAI'I BY AND THROUGH THE CHIEF, OAHU COLLECTIONS
BRANCH; JOHN DOES 1-50; JANE DOES 1-50; DOE PARTNERSHIPS 1-50;
DOE CORPORATIONS 1-50; DOE ENTITIES 1-50; and DOE GOVERNMENTAL
UNITS 1-50, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 97-1235)

ORDER DENYING MOTION FOR RECONSIDERATION
AS TO APPELLANT REALTY FINANCE, INC.

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the motion for reconsideration of the May 9, 2005 order dismissing appeal filed by plaintiff-appellant Realty Finance, Inc., the papers in support and the record, it appears that the complaint for foreclosure was adjudicated by the February 24, 1998 judgment that entered judgment in favor of Realty Finance for foreclosure and sale of the subject properties and against defendants Schmidt for any deficiency. The February 24, 1998 judgment was the HRCPC 58 final judgment on the complaint and all subsequent proceedings were post-judgment proceedings to enforce the February 24, 1998 judgment. See MDG Supply v. Diversified Investments, 51 Haw.

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375, 380, 463 P.2d 525, 529 (1969) ("[A] judgment [of foreclosure] finally determines the merits of the controversy, and subsequent proceedings are simply incidents to its enforcement."); Security Pacific Mortgage Corp. v. Miller, 71 Haw. 65, 783 P.2d 855 (1989) (a deficiency judgment is incident to the administration and enforcement of a judgment of foreclosure that adjudicates the right to a deficiency). Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, June 3, 2005.



Steven H. Levinson

Huiwa A. Nakayama



Ramon E. Dwehbi Jr.